

# NEW YORK LABOR LAW POSTINGS



## WHISTLEBLOWER PROTECTION LAW

Division of Labor Standards  
Harriman State Office Campus  
Building 12, Albany, NY 12226

WE ARE YOUR DOL  
Department of Labor  
[www.labor.ny.gov](http://www.labor.ny.gov)

### Notice of Employee Rights, Protections, and Obligations Under Labor Law Section 740

Prohibited Retaliatory Personnel Action by Employers Effective January 26, 2022

**S 740. Retaliatory action by employers; prohibition.**

- 1. Definitions.** For purposes of this section, unless the context specifically indicates otherwise:
  - (a) "Employee" means an individual who performs services for and under the control and direction of an employer for wages or other remuneration, including former employees, or natural persons employed as independent contractors to carry out in furtherance of an employer's business enterprise who are not themselves employees.
  - (b) "Employer" means any person, firm, partnership, institution, corporation, or association that employs one or more employees.
  - (c) "Law, rule, or regulation" includes (i) any duly enacted federal, state or local statute or ordinance or executive order; (ii) any rule or regulation promulgated pursuant to such statute or ordinance or executive order; or (iii) any judicial or administrative decision, ruling or order.
  - (d) "Public body" includes the following:
    - (i) the United States, any state legislature, any elected local governmental body, or any member or employee thereof;
    - (ii) any federal, state, or local court, or any member or employee thereof, or any grand or petit jury;
    - (iii) any federal, state, or local regulatory, administrative, or public agency or authority, or instrumental thereof;
    - (iv) any federal, state, or local law enforcement agency, prosecutorial office, or police or peace officer;
    - (v) any federal, state or local department of an executive branch of government;
    - (vi) any division, board, bureau, office, committee, or commission of any of the public bodies described in subparagraphs (i) through (v) of this paragraph.
- (e) "Retaliatory action" means an adverse action taken by an employer or his or her agent to discharge, threaten, penalize, or in any other manner discriminate against any employee or former employee exercising his or her rights under this section, including (i) adverse employment actions or threats to take such adverse employment actions against an employee in the terms of conditions of employment but not limited to discharge, suspension, or demotion; (ii) actions or threats to take such actions that would adversely impact a former employee's current or future employment; or (iii) threatening or contacting United States immigration authorities or otherwise reporting or threatening to report an employee's suspected citizenship or immigration status or the suspected citizenship or immigration status of an employee's family or household member, as defined in subdivision two of section four hundred fifty-nine-a of the social services law, to a federal, state, or local agency.**
- (f) "Supervisor" means any individual within an employer's organization who has the authority to direct and control the work performance of the affected employee; or who has managerial authority to take corrective action regarding the violation of the law, rule or regulation of which the employee complains.**
- 2. Prohibitions.** An employer shall not take any retaliatory action against an employee, whether or not within the scope of the employee's job duties, because such employee does the following:
  - (a) discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer that the employee reasonably believes is in violation of law, rule or regulation or that the employee reasonably believes poses a substantial and specific danger to the public health or safety;
  - (b) provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any such activity, policy or practice by such employer; or
  - (c) objects to, or refuses to participate in, any such activity, policy or practice.
- 3. Application.** The protection against retaliatory action provided by paragraph (a) of subdivision two of this section pertaining to disclosure to a public body shall not apply to an employee who makes such disclosure to a public body unless the employee has made a good faith effort to notify his or her employer by bringing the activity, policy or practice to the attention of a supervisor of the employer and has afforded such employee a reasonable opportunity to correct such activity, policy or practice. Such employer notification shall not be required where:
  - (a) there is an imminent and serious danger to the public health or safety;
  - (b) the employee reasonably believes that reporting to the supervisor would result in a destruction of evidence or other concealment of the activity, policy or practice;
  - (c) such activity, policy or practice could reasonably be expected to lead to endangering the welfare of a minor;
  - (d) the employee reasonably believes that reporting to the supervisor would result in physical harm to the employee or any other person; or
  - (e) the employee reasonably believes that the supervisor is already aware of the activity, policy or practice and will not correct such activity, policy or practice.
- 4. Violation.**
  - (a) An employee who has been the subject of a retaliatory action in violation of this section may institute a civil action in a court of competent jurisdiction for relief as set forth in subdivision five of this section within two years after the alleged retaliatory action was taken.
  - (b) Any action authorized by this section may be brought in the county in which the alleged retaliatory action occurred, in the county in which the complainant resides, or in the county in which the employer has its principal place of business. In any such action, the parties shall be entitled to a jury trial.
  - (c) It shall be a defense to any action brought pursuant to this section that the retaliatory action was predicated upon grounds other than the employee's exercise of any rights protected by this section.
- 5. Relief.** In any action brought pursuant to subdivision four of this section, the court may order relief as follows:
  - (a) an injunction to restrain continued violation of this section;
  - (b) the reinstatement of the employee to the same position held before the retaliatory action, or to an equivalent position, or front pay in lieu thereof;
  - (c) the reinstatement of full fringe benefits and seniority rights;
  - (d) the compensation for lost wages, benefits and other remuneration;
  - (e) the payment by the employer of reasonable costs, disbursements, and attorney's fees;
  - (f) a civil penalty of an amount not to exceed ten thousand dollars; and/or
  - (g) the payment by the employer of punitive damages, if the violation was willful, malicious or wanton.
- 6. Employer relief.** A court, in its discretion, may also order that reasonable attorneys' fees and court costs and disbursements be awarded to an employer if the court determines that an action brought by an employee under this section was without basis in law or fact.
- 7. Existing rights.** Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any other law or regulation or under any collective bargaining agreement or employment contract.
- 8. Publication.** Every employer shall inform employees of their protections, rights and obligations under this section, by posting a notice thereof. Such notices shall be posted conspicuously in easily accessible and well-lighted places customarily frequented by employees and applicants for employment.

To Be Posted Conspicuously in easily accessible and well-lighted places customarily frequented by employees and applicants for employment.

LS740 (02/22)

## FRINGE BENEFITS AND HOURS

The Following Information Constitutes Employer's Policy on Fringe Benefits.

SICK LEAVE: \_\_\_\_\_

VACATION TIME: \_\_\_\_\_

PERSONAL LEAVE: \_\_\_\_\_

HOLIDAYS: \_\_\_\_\_

HOURS: \_\_\_\_\_

Pursuant to N.Y. State Consolidated Laws Chapter 31, Article 6, Sec. 195.5  
This notice must be posted in a conspicuous place where notices to employees are customarily posted.

## RIGHT TO KNOW

# YOU HAVE A RIGHT TO KNOW!

Your employer must inform  
you of the health  
effects and hazards  
of toxic substances  
at your  
worksites.

Learn all  
you can  
about toxic  
substances  
on your job.

For more  
information,  
contact:

Name \_\_\_\_\_

Location & Phone Number  
THE RIGHT TO KNOW LAW WORKS FOR YOU.  
NEW YORK STATE DEPARTMENT OF HEALTH

## TIME OFF FOR VOTING

### ATTENTION ALL EMPLOYEES

New York State Election Law Section  
3-110 states that:

§ 3-110. Time allowed employees to vote

- If a registered voter does not have sufficient time outside of his or her scheduled working hours, within which to vote on any day at which he or she may vote, at any election, he or she may, without loss of pay for up to two hours, take off so much working time as will, when added to his or her voting time outside his or her working hours, enable him or her to vote.
- If an employee has four consecutive hours either between the opening of the polls and the beginning of his or her working shift, or between the end of his or her working shift and the closing of the polls, he or she shall be deemed to have sufficient time outside his or her working hours within which to vote. If he or she has less than four consecutive hours he or she may take off so much working time as will, when added to his or her voting time outside his or her working hours enable him or her to vote, but not more than two hours of which shall without loss of pay, provided that he or she shall be allowed time off for voting only at the beginning or end of his or her working shift, as the employer may designate, unless otherwise mutually agreed.
- If the employee requires working time off to vote the employee shall notify his or her employer not more than ten nor less than two working days before the day of the election that he or she requires time off to vote in accordance with the provisions of this section.
- Not less than ten working days before every election, every employer shall post conspicuously in the place of work where it can be seen as employees come or go to their place of work, a notice setting forth the provisions of this section. Such notice shall be kept posted until the close of the polls on election day.

### ATENCIÓN A TODOS LOS EMPLEADOS

La Sección 3-110 de la Ley Electoral del Estado de Nueva York establece que:

§ 3-110. Tiempo permitido para que los empleados vayan a votar

- Si un votante inscrito no tiene suficiente tiempo fuera de sus horas laborales señaladas, para ir a votar en cualquier día en el que él o ella puede ir a votar, en cualquier momento durante las elecciones, él o ella, tiene hasta dos (2) horas sin la pérdida de sueldo para tomar tiempo de ir a votar de su trabajo, que corre por su cuenta, o fuera de sus horas de trabajo que le permite ir a votar.
- Si un empleado tiene cuatro (4) horas consecutivas bien sea antes de la apertura de las urnas electorales y el inicio de su turno de trabajo, o entre el final de su turno de trabajo y el cierre de las urnas electorales, se entiende que él o ella tiene suficiente tiempo fuera de sus horas de trabajo para ir a votar. Si él o ella tiene menos de cuatro (4) horas consecutivas para ir a votar, conforme al tiempo de su trabajo, conforme a su voluntad, pero no más de las dos (2) horas permitidas sin la pérdida de sueldo, siempre y cuando se le pueda permitir tomar ese tiempo para ir a votar solamente antes del inicio de su turno de trabajo o al finalizar su turno de trabajo, conforme lo que designe el empleador; salvo que mutuamente concuerden en algún otro arreglo.
- Si el empleado requiere tomar tiempo del trabajo para ir a votar, debe avisar a su empleador con no más de diez días de antelación, ni menos de dos días laborables antes de la fecha de ir a votar, conforme a lo dispuesto en esta sección.
- Cada empleador convale la responsabilidad de publicar este aviso donde se dispone de las estipulaciones en esta sección, en un lugar fácilmente visible en el área de trabajo, con no menos de diez días laborables antes de cada elección. Dicho aviso permanecerá publicado hasta el momento del cierre de las urnas electorales en el día de las elecciones.

## EQUAL PAY

### WE ARE YOUR DOL

Division of Labor Standards

### Equal Pay Provision of the New York State Labor Law

Article 6, Section 194

S 194. Differential in rate of pay because of protected class status prohibited.

- No employee with status within one or more protected class or classes shall be paid a wage at a rate less than the rate at which an employee without status within the same protected class or classes in the same establishment is paid for: (a) equal work on a job the performance of which requires equal skill, effort and responsibility, and which is performed under similar working conditions, or (b) substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions; except where payment is made pursuant to a differential based on:
  - (i) a seniority system;
  - (ii) a merit system which measures earnings by quantity or quality of production;
  - (iv) a bona fide factor other than status within one or more protected class or classes, such as education, training, or experience. Such factor:
    - (a) shall not be based upon or derived from a differential in compensation based on status within one or more protected class or classes and
    - (b) shall be related with respect to the position in question and shall be consistent with business necessity. Such excuse may not be based on this paragraph if it is not consistent with the employee's duties.
  - (1) that an employer has a particular employment practice that causes a disparate impact on the basis of status within one or more protected class or classes.
  - (2) that an alternative employment practice exists that would serve the same business purpose and not produce such differential, and
  - (3) that the employer has refused to adopt such alternative practice.
- For the purpose of subdivision one of this section:
  - (a) "business necessity" shall be defined as a factor that bears a manifest relationship to the employment in question, and
  - (b) "protected class" shall include age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence or harassment, as defined in this article, and shall not include any employee protected from discrimination pursuant to paragraphs (a), (b), and (c) of subdivision two of section two hundred thirty-six and any intent protected from discrimination pursuant to section two hundred thirty-six of the executive law.
- For the purposes of subdivision one of this section, employees shall be deemed to work in the same establishment if the employees work for the same employer at workplaces located in the same geographical region, no larger than a county, taking into account population distribution, economic activity, and/or the presence of municipalities.
- An employer shall prohibit an employee from inquiring about, discussing, or disclosing the wages of such employee or another employee.
- An employer may, in a written policy provided to all employees, establish reasonable workplace and workday limitations on the time, place and manner for inquires about, discussion of, or the disclosure of wages. Such limitations shall be consistent with standards promulgated by the commissioner and shall be consistent with all other state and federal laws. Such limitations may include prohibiting an employee from discussing or disclosing the wages of another employee without his or her permission.
- Nothing in this subdivision shall require an employee to disclose his or her wages. The failure of an employee to adhere to such reasonable limitations in such written policy shall be an affirmative defense to any claims made against an employer under this subdivision, provided that any adverse employment action taken by the employer was for failure to adhere to such reasonable limitations and not for inquiry, discussion or disclosure of wages in accordance with such reasonable limitations in such written policy.
- The prohibition shall not apply to instances in which an employee who has access to the wage information of other employees as a part of such employee's essential job functions discloses the wages of such other employees to individuals who do not otherwise have access to such information, unless such disclosure is in response to a complaint or charge, or in furtherance of an investigation, proceeding, hearing, or action under this chapter, including an investigation conducted by the employer.
- Nothing in this section shall be construed to limit the rights of an employee provided under any other provision of law or collective bargaining agreement.

For questions, write or call your nearest office, (listed below), of the:

New York State Department of Labor  
Division of Labor Standards

Albany District  
State Office Campus  
Bldg. 12, Rm. 185A  
Albany, NY 12226  
(518) 465-2730

Bronx District  
55 Hanson Place  
11th Floor  
Brooklyn, NY 11217  
(212) 775-3719

Buffalo District  
290 Main Street  
Suite 914  
Buffalo, NY 14203  
(716) 847-7141

LS 603

Carden City District  
400 Oak Street  
Suite 102  
Carden City, NY 11530  
(518) 465-8195

New York City District  
55 Hanson Place  
11th Floor  
Brooklyn, NY 11217  
(212) 775-3780

Rochester District  
270 University Road  
Room 104  
Rochester, NY 14609  
(585) 258-4550

Syracuse District  
333 East Washington St.  
Room 121  
Syracuse, NY 13202  
(315) 473-4050

White Plains District  
120 Bloomingdale Road  
White Plains, NY 10605  
(914) 997-9521

## FAIR EMPLOYMENT

### Division of Human Rights

ESTE ESTABLECIMIENTO ESTÁ SUJETO A LA LEY DE DERECHOS HUMANOS DEL ESTADO DE NUEVA YORK (LÉY EJECUTIVA, SECCIÓN 15)

Esta ley de derechos humanos del estado de Nueva York prohíbe la discriminación por edad, raza, credo, color, origen nacional, orientación sexual, estatus militar, sexo, discapacidad, condición de embarazo, género, clase social, situación migratoria, ascendencia, estado civil, estatus marital o situación de hogar protegido por la Nueva York State Human Rights Law. Sexual harassment o harassment no deben expresarse en ninguna forma.

Todos los empleadores, agencias de empleo, organizaciones de trabajo y programas de capacitación y aprendizaje están prohibidos de discriminar en el empleo sobre la base de la observación del Shabat o prácticas religiosas; peinados asociados con la raza (también se aplica a las áreas enumeradas a continuación) a través de antecedentes penales; las características genéticas; predisposiciones; las condiciones relacionadas con el embarazo.

Es posible que sea necesario hacer algunas excepciones para personas con discapacidades y condiciones relacionadas con el embarazo incluyendo lactancia. Un arreglo razonable es una adaptación a un trabajo o entorno laboral que permite que una persona con discapacidad realice las tareas esenciales de un trabajo de manera razonable.

También están cubiertos: trabajadores domésticos; internos y no empleados que trabajan en un lugar de trabajo (por ejemplo trabajadores temporales o contractuales) están protegidos de toda discriminación desrta. arriba.

ALQUILER, ARRENDAMIENTO O VENTA DE VIVIENDA, TERRENO O ESPACIO COMERCIAL INCLUIDO ACTIVIDADES DE AGENTE DE BIENES RAÍZES Y OFICINAS DE AGENTES DE BIENES RAÍZES.

También está prohibida la discriminación a base de fuente de ingreso legal (por ejemplo, vales, beneficios de discapacidad, manutención de niños); estado familiar (familias con niños o en edad de embarazo); arresto previo o condenna; boicot; cometer o acoso inmobiliario.

También es posible que sea necesario realizar modificaciones y arreglos razonables para personas con discapacidades.

Excepciones:

(1) alquiler de un apartamento en una casa para dos familias ocupada por el dueño;

(2) restricciones de todas las habitaciones en una vivienda para individuos del mismo sexo;

(3) alquiler de una habitación por parte del dueño de una casa o apartamento;

(4) venta, alquiler o arrendamiento de alojamiento en una casa exclusivamente para personas mayores de 55 años o más y conyuge de dichas personas.

TODAS LAS TRANSACTIOMES CREDITICIAS INCLUYENDO FINANCIAMIENTO PARA LA COMPRA, MANTENIMIENTO Y REPARACIÓN DE VIVIENDAS

LUGARES DE ALQUILER PÚBLICO, COMO RESTAURANTES, HOTEL, HOSPITALES Y CONSULTORIOS MÉDICOS, CLUBS, PARQUES Y OFICINAS DEL GOBIERNO.

Excepción:

Age es no una clasificación cubierta respecto a los alojamientos públicos.

Es posible que sea necesario realizar arreglos razonables para personas con discapacidades.

EDUCACIÓN INSTITUCIONAL

Al público se le permite que las escuelas privadas sin ánimo de lucro, en todos los niveles, excluyendo escuelas dirigidas por organizaciones religiosas; también están cubiertos: escuelas profesionales autorizadas o escuelas certificadas de acuerdo con lo establecido en la sección 15.